

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 91-662-C - ORDER NO. 92-514
JULY 6, 1992

IN RE: Application of Working Assets Funding) ORDER
Service, Inc. for a Certificate of Public) DENYING
Convenience and Necessity to Operate as a) PETITION FOR
Reseller of Telecommunications Services) REHEARING AND
in South Carolina.) RECONSIDERATION

This matter is before the Public Service Commission of South Carolina on Working Assets Funding Service, Inc.'s (Working Assets') Petition for Rehearing and Reconsideration of Order No. 92-426 (June 3, 1992). Order No. 92-426 denied Working Assets' Application for a Certificate of Public Convenience and Necessity to operate as a reseller of telecommunications services in South Carolina. Working Assets asserts Order No. 92-426 violates S.C. Code Ann. §1-23-350 and 380(g) 1-6 (1986). Specifically, Working Assets asserts as follows:

1. Order No. 92-426 is not supported by fact or law.
2. The record does not contain substantial evidence which would support a decision to deny WAFS [Working Assets] a Certificate of Public Convenience and Necessity based on financial stability. Greyhound Lines, Inc. v. South Carolina Public Service Commission, 274 S.C. 168, 262 S.E.2d 22 (1980).

3. Order No. 92-426 does not comply with the Supreme Court's mandate in Able Communications, Inc. v. South Carolina Public Service Commission, et al., 290 S.C. 409, 351 S.E.2d 151 (1986) and Hamm v. South Carolina Public Service Commission, et al., 298 S.C. 309, 380 S.E.2d 428 (1989).
4. The Commission's decision embodied in Order No. 92-426 is not based on the record, ignores federal initiatives to open the telecommunications industry to competition, and ignores the Constitutional protections of free speech, due process, and equal protection afforded to WAFS [Working Assets] and its right to conduct business in this State.

The Commission disagrees and, consequently, denies the Petition for Rehearing and Reconsideration.

Order No. 92-426 contains a thorough rendition of the evidence presented at the hearing on this matter. In its "Findings of Fact," the Commission recited the evidence which referred to Working Assets' business arrangement, its plans to resell telecommunications services in South Carolina, its stated commitment to provide telecommunications services in other states, and its financial status as stated by Working Assets in its Application and Hearing Exhibit 2.¹ In its "Conclusions of Law," the Commission fully analyzed the testimony regarding Working Assets' financial status and, thereafter, denied the Application due to "its concerns about Working Assets' financial stability." Order, p. 4. This conclusion was based on a review of all of the evidence presented at the hearing and, therefore, is fully supported by the evidence of record. Moreover, because its

1. Hearing Exhibit 2 was offered by Working Assets.

decision to deny Working Assets' Application is based on the evidence of record, the Commission's decision does not "ignore federal initiatives to open the telecommunications industry to competition and ignore the Constitutional protections of free speech, due process, and equal protection ... and [Working Assets'] right to conduct business in this State."²

Finally, Working Assets asserts the Commission should consider the affidavits and letters submitted as attachments to its Petition for Rehearing and Reconsideration as evidence in support of its Application. These affidavits and letters indicate that Working Assets is financially stable. The Commission disagrees.

Working Assets' opportunity to present its evidence in support of its Application, including evidence of its financial stability, was at the hearing. The Commission concludes it would be inappropriate to allow Working Assets to produce evidence after the record in the proceeding has been closed. The Commission notes that Working Assets does not contend that its affidavits and letters have been discovered since the hearing and could not have been discovered prior to the hearing. Accordingly, the Commission will not consider the affidavits and letters submitted with Working Assets' Petition for Rehearing and Reconsideration.

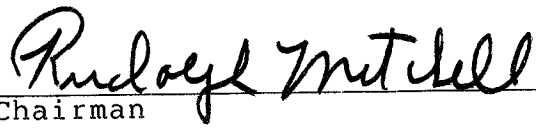

2. The Commission notes that it is unable to respond to Working Assets' constitutional arguments because the allegations are extremely broad and general in nature.

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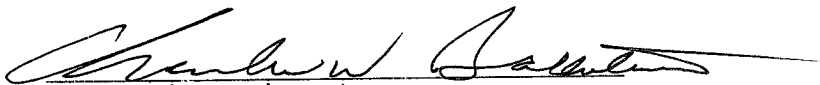
Based on the above analysis, the Commission denies Working Assets' Petition for Rehearing and Reconsideration.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:


 Chairman

ATTEST:


Executive Director

(SEAL)